

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA

Richmond Division

JOSE MOYHERNANDEZ,  
Plaintiff,

v.

Civil No. 3:21cv409 (DJN)

UNITED STATES WARDEN J. ANDREWS,  
Defendant.

**MEMORANDUM OPINION**

By Memorandum Order entered on July 29, 2021, the Court conditionally docketed Plaintiff's action. (ECF No. 5.) At that time, the Court directed Plaintiff to affirm his intention to pay the full filing fee by signing and returning a consent to collection of fees form. The Court warned Plaintiff that a failure to comply with the above directive within thirty (30) days of the date of entry thereof would result in summary dismissal of the action.

Plaintiff has not complied with the Court's order to return a consent to collection of fees form. As a result, he does not qualify for *in forma pauperis* status. Furthermore, he has not paid the statutory filing fee for the instant action required by 28 U.S.C. § 1914(a). Plaintiff's conduct demonstrates a willful failure to prosecute. Accordingly, pursuant to Federal Rule of Civil Procedure 41(b), this action will be DISMISSED WITHOUT PREJUDICE.

An appropriate Order shall issue.

Let the Clerk file a copy of this Memorandum Opinion electronically and send a copy to Plaintiff.

/s/



David J. Novak  
United States District Judge

Richmond, Virginia  
Dated: September 17, 2021